

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN BURTON,

Plaintiff,

v.

CITY OF SPOKANE, *et al.*,

Defendants.

NO. CV-06-322-RHW

**ORDER DENYING PLAINTIFF'S
MOTION FOR
RECONSIDERATION**

Before the Court is Plaintiff's Motion for Reconsideration (ECF No. 291). The motion was heard without oral argument.

On June 22, 2012, the Court denied Plaintiff's Motion to Vacate Judgment (ECF No. 287). Plaintiff filed a Notice of Appeal, appealing this ruling. On July 2, 2012, Plaintiff filed a Motion for Reconsideration (ECF No. 291). As explained in a prior Order ((ECF No. 280), the Court is without jurisdiction to hear this motion because Plaintiff filed his Notice of Appeal. *See Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (filing of notice of appeal "divests the district court of its control over the aspects of the case involved in the appeal.").

Plaintiff asserts that the Court denied his Motion to Vacate Judgment because Plaintiff mistakenly submitted the wrong affidavit for the basis of the motion. However, Plaintiff fails to address the other basis for granting the Motion, namely, that Plaintiff's motion was untimely under Fed. R. Civ. 60.

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**ORDER DENYING
PLAINTIFF'S MOTION FOR RECONSIDERATION ~ 1**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Plaintiff's Motion for Reconsideration (ECF No. 291) is **DENIED**.
3 **IT IS SO ORDERED.** The District Court Executive is directed to enter
4 this Order, and forward copies to Plaintiff and counsel.

5 **DATED** this 9th day of August, 2012.

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7 *s/Robert H. Whaley*

8 ROBERT H. WHALEY
9 United States District Judge

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